

DEFENDANTS' EXHIBIT C

MICHIGAN DEPARTMENT OF CORRECTIONS
CLASS I MISCONDUCT HEARING REPORTCSJ-240B
Rev. 10/10

Prisoner	Prisoner Name	Facility Code	Lock	Violation Date
369273	Smith	IBC	8-15	03/26/2020

Charge(s)

Fighting (1850)

If Charge Changed by Hearing Officer

Plea

☐ Guilty ☒ Not GuiltyMisconduct Report Read to and Discussed with Prisoner ☒ (check if applies)
Hearing Investigation Read to and Discussed with Prisoner ☐ (check if applies)No Hearing Investigation Requested
☒ (check if applies)

EVIDENCE/STATEMENTS IN ADDITION TO MISCONDUCT REPORT

Prisoner present at this video conference hearing. All documents are one page, unless otherwise noted.

Misconduct Report, statement of Officer Rubley, statement of Officer Felver, Misconduct Sanction Screening Form, read to and discussed with prisoner. ORAL STATEMENT FROM PRISONER AT HEARING:

Prisoner said staff sent Hoskins down from B upper to attack prisoner. Prisoner was just defending himself. He did not want to get hurt. The video would show that. He did ask for the video at review.

I told prisoner I would hold the hearing of Prisoner Hoskins and make my decision today.

ORAL STATEMENT FROM PRISONER HOSKINS AT HEARING:

Prisoner said he pleads guilty. I asked prisoner if staff sent him to attack Smith. Prisoner said he doesn't know anything about that. I asked prisoner if Smith could have retreated. Prisoner said, "All I know is we got into a fight."

DUE PROCESS: Prisoner requested the video for the first time at the hearing. Prisoner did not request the video at the time of review. Since prisoner is not found to be credible in claiming staff sent Prisoner Hoskins to attack prisoner, prisoner is not found to be credible in claiming that he asked for the video at review. I find prisoner's claim that he asked for the video to be

REASONS FOR FINDINGS

a delaying tactic. MDOC Policy 03.03.105, Attachment A defines fighting as a physical confrontation between two or more persons, including a swing and miss, done in anger or with intent to injure. The reporter describes directly observing prisoner deliver closed fist blows to Prisoner Hoskins' head and neck area. Prisoner says he was defending himself, but prisoner is not found to be credible in this claim, as part of his claim is that staff sent Hoskins to attack him, and prisoner has no credible evidence to support this claim. The staff witness statements and the statement of Hoskins are consistent with the Misconduct Report. Prisoner was engaged in a physical confrontation between two or more persons, including a swing and miss, done in anger or with intent to injure. Moreover, in order to establish self-defense in accordance with the Hearings Handbook, prisoner must show, among other factors, that he had no reasonable alternative to the use of force in defending his physical well-being, (e.g., retreat or call for help from staff was not a possible alternative) MDOC HEARINGS HANDBOOK (V)(G)(1) Here, prisoner claims he was defending himself, but he does not claim that he had no means of retreat on the wing where the altercation took place. In addition, staff members were present and prisoner does not claim that he called for their help. Prisoner has not established self-defense.

PROPERTY DISPOSITION (for contraband see PD 04.07.112)

FINDINGS

Charge No. 1	<input checked="" type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code <u>014</u>
Charge No. 2	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____
Charge No. 3	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____
Charge No. 4	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____

DISPOSITION (select one or more) (Toplock & LOP Sanctions End at 6:00 am)

	Begin	Ends	
<u>10</u> Days of Detention	<u>03/30/2020</u>	<u>04/09/2020</u>	Days Credit
Days Top Lock			Hours Extra Duty
Days Loss of Privileges			\$ Restitution

Misconduct Hearing Report personally handed to Prisoner by Hearing Officer on this date: _____ (Check if Applies) ☐Hearing Report given to Staff Member by Hearing Officer for Delivery to Prisoner this date: 3/30/2020 (Check if Applies) ☒Date of Hearing 03/30/2020Name of Staff Member HI Novak

Hearing Officer's Name

Hearing Officer's Signature

Date

S. Burke 053

S. C. Burke

3-30-20